

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DWAYNE BACON,

Plaintiff,

-v-

9:15-CV-1502  
(DNH/CFH)

MR. PHELPS, formerly known as Phillips,

Defendant.  
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APPEARANCES:

DWAYNE BACON  
Plaintiff pro se  
44513-007  
Oklahoma City Federal Transfer Center  
Inmate Mail/Parcels  
P.O. Box 898801  
Oklahoma City, OK 73189

HON. GRANT C. JAQUITH  
United States Attorney for the  
Northern District of New York  
Attorney for Defendant  
P.O. Box 7198  
100 South Clinton Street  
Syracuse, NY 13261

CHARLES E. ROBERTS, ESQ.  
Ass't United States Attorney

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Pro se plaintiff Dwayne Bacon brought this civil rights action against the above named federal defendant pursuant to Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). On July 31, 2018, the Honorable Christian F. Hummel,

United States Magistrate Judge, advised by Report-Recommendation that defendant's motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure be granted and that plaintiff's second amended complaint be dismissed in its entirety, with prejudice. Plaintiff filed timely objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

Therefore, it is

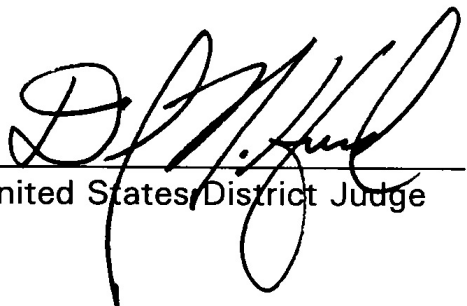
ORDERED that

1. Defendant's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) is GRANTED; and

2. Plaintiff's second amended complaint is DISMISSED in its entirety, with prejudice.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.



United States District Judge

Dated: August 29, 2018  
Utica, New York.